

REMARKS

Claims 26-41 are currently pending in the subject application. In the office action of May 31, 2005, claims 26-40 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by U.S. Patent No. 3,873,740 to Terrell ("Terrell") and claims 26-33, 35-36, and 38-41 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by British Patent GB 1 368 402 ("GB '402").

Applicants respectfully traverse these rejections and submit the enclosed amendments and remarks to overcome the rejections. In the response, claims 32 and 33 have been canceled and new claims 42-46 have been added. Applicants assert that all amendments and new claims are supported by the application as originally filed.

Rejections Under 35 U.S.C. § 102

Terrell

Claims 26-40 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by Terrell. Applicants traverse this rejection for the following reasons.

Terrell teaches a method of producing meat food mixes for use in making cured, meat food products. Terrell requires the use of an edible coarsely-divided, textured, extrusion-expanded protein. The extrusion-expanded protein preferably is soy protein. (Column 13, lines 59-65).

In contrast to Terrell, the subject application discloses a method of altering one or more textural properties of a food product comprising "mixing a soy protein product mixture, wherein said soy protein product mixture comprises a blend of one or more acidic phosphates, a gum selected from the group consisting of xanthan gum, locust bean gum, carrageenan, pectin and guar gum, and a soy protein product,

wherein the soy protein product is at least one of soy protein isolates, soy protein concentrates, and soy flour; and adding said soy protein product mixture to said food product.” (Claim 1).

Unlike Terrell, the protein product of the claims of the subject application is not an extrusion expanded protein and is instead a soy protein product in powdered form (see definitions of soy protein isolates and concentrates, paragraphs [0028] and [0039]). Further, the soy protein product is mixed with the acidic phosphates and gum to form the blended soy protein product mixture, which is then added to the food product. Terrell does not teach adding a blend of one or more acidic phosphates, a gum, and a soy protein product to a food product. Instead, Terrell teaches comminuting sodium chloride, and at least some of the edible natural flesh and at least some of the added water to form a batter, followed by adding and comminuting and emulsifying the remaining materials of said mix. (See claims 6, 12, and 19, and Example III, column 21-22). There is no indication, suggestion, or motivation in Terrell to combine the soy protein product with the acidic phosphates and gum to form a blended soy protein product mixture, for example, a dry mixture, that may then be added to the food product. Therefore, Terrell does not disclose each and every aspect of the claims of the subject application. Withdrawal of the rejection of claims 26-40 under 35 U.S.C § 102(b) is respectfully requested.

GB ‘402

Claims 26-33, 35-36, and 38-41 stand rejected under 35 U.S.C. § 102(b) as assertedly being anticipated by GB ‘402. Applicants traverse this rejection for the following reasons.

GB '402 discloses a "protein-based food." (*Page 1, lines 12-13*). The protein-based food of GB '402 is formed by mixing water, a vegetable protein, particularly soya protein, animal proteins, lipids, flavorings, gelatin and acidic phosphate salts. (*Page 2, lines 9-104*). The resultant aqueous suspension is then heat dried until the water content is from 5% to 45% to form a gel. (*Page 1, lines 74-90*). The homogeneous block obtained from drying the gel can be cut into thin transparent slices to mimic the partially dried beef of "viande des grisons", (*page 4, lines 45-52*), or cooked by microwave to produce a ham or bacon mimic, (*page 3, lines 41-50*).

Unlike the subject disclosure, the resultant gel of GB '402 is not added to a food product to alter one or more textural properties of the food product, the GB '402 gel is the food product. The GB '402 gel forms 100 % of the resultant food product. In contrast, the soy protein product mixture of the subject application is added to a food product, wherein one or more textural properties of the food product are altered. There is no food product in GB '402 to which the gel may be added or the textural properties of which may be modified. The method as claimed in the subject application is fundamentally different that the method disclosed by GB '402.

Further, the method disclosed in GB '402 does not include a soy protein product mixture comprising one or more sodium phosphates, a gum, and a soy protein product. According to GB '402, a paste is prepared by mixing powdered whey, gelatin, sodium chloride, sodium glutamate, glycerin, "Fondagil", and colorant in water. The soya protein was then incorporated. (*Page 3, lines 99-105*).

Therefore the amended claims of the subject application are not anticipated by GB '402. Further, there is no suggestion or motivation to alter the

teachings of GB '402 to give the method as claimed in the subject application.

Applicants respectfully request that the rejection of claims 26-33, 35-36, and 38-41 be withdrawn.

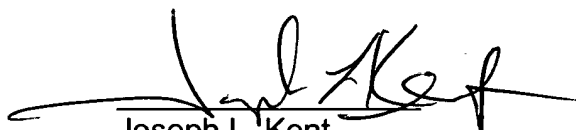
CONCLUSION

Applicants submit that claims 26-31 and 34-46 of the subject application recite a novel and non-obvious methods for altering one or more textural properties of a food product. In view of the amendments and remarks presented above, Applicants respectfully submit that the subject application is in condition for allowance.

Accordingly, reconsideration of the rejections and allowance of claims 26-31 and 34-46 at an early date are earnestly solicited.

If the undersigned can be of assistance to the Examiner in addressing issues to advance the application to allowance, please contact the undersigned at the number set forth below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. L. Kent', with a long horizontal flourish extending to the left.

Joseph L. Kent
Registration No. 54,216
Customer No. 41,835

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, Pennsylvania 15222
Telephone: (412) 355-8315
Facsimile: (412) 355-6501